

AMENDED IN ASSEMBLY APRIL 13, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1682

**Introduced by Assembly Member Ortiz Members Ortiz,
Figueroa, Mazzoni, and Sweeney**
(Coauthor: Senator Watson)

January 16, 1998

An act to add Section 1032 to the Government Code,
relating to public officers and employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1682, as amended, Ortiz. Public officers and employees: child support.

Existing law prescribes various qualifications for eligibility to hold a state or local office or to be employed by the state or any county, city, district, or other political subdivision of the state.

This bill would provide that a person is ineligible to hold office or employment of any kind under the state or any county, city, district, or other political subdivision of the state, if he or she is not in compliance with a judgment order for child support. However, the prohibition would not apply to any person holding an office or employment on January 1, 1999, unless the person subsequently leaves the office or employment require every person who is given an offer of employment with the state or any county, city, district, or other political subdivision of the state to file an affidavit with that agency's department of personnel disclosing any unpaid

court-ordered child support obligations. If the affidavit discloses or the agency's department of personnel determines that an applicant owes any unpaid court-ordered child support, the bill would authorize the person to be employed only if he or she signs an affidavit that states that he or she will demonstrate a good-faith effort toward compliance, as specified, within 6 months of the start of employment. The bill would provide that the failure to demonstrate a good-faith effort shall be grounds for discharge of the employee. The bill would also provide that all employees of the state, any county, city, district, or other subdivision of the state shall comply with all court-ordered child support obligations as a condition of employment and would make noncompliance grounds for discipline. The bill would authorize the department of personnel of any state or local agency to undertake various related activities. To the extent that local public entities would be required to implement this provision, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 1032 is added to the~~
- 2 *SECTION 1. This act shall be known and may be cited*
- 3 *as the Public Employee Child Responsibility Act.*
- 4 *SEC. 2. The Legislature finds and declares as follows:*
- 5 *(a) The many millions of dollars of unpaid child*
- 6 *support obligations are an enormous social problem that*

1 *threaten the welfare of California's children and increase*
2 *the burden on California's taxpayers to provide services*
3 *for these children.*

4 *(b) It is in California's interest that all employees of*
5 *the state or any county, city, district, or other political*
6 *subdivision of the state, demonstrate financial*
7 *responsibility, integrity, and lawfulness.*

8 *(c) Whereas, employees of the state or any county,*
9 *city, district, or other political subdivision of the state, are*
10 *paid by public funds, it is especially inequitable for them*
11 *to obtain those benefits while failing to pay court-ordered*
12 *child support, which shifts the support of their*
13 *dependents onto the taxpayers.*

14 *SEC. 3. Section 1032 is added to the Government*
15 *Code, to read:*

16 *1032. (a) Every person who is given an offer of*
17 *employment with the state or any county, city, district, or*
18 *other political subdivision of the state, shall file an*
19 *affidavit with that agency's department of personnel*
20 *disclosing any unpaid court-ordered child support*
21 *obligations owed by the applicant.*

22 *(b) If an applicant's affidavit discloses, or the agency's*
23 *department of personnel otherwise determines, that an*
24 *applicant owes any unpaid court-ordered child support,*
25 *the applicant shall only be employed by the state or any*
26 *county, city, district, or other political subdivision of the*
27 *state, if he or she signs an affidavit that states that he or*
28 *she will demonstrate a good-faith effort to establish one*
29 *of the following within six months of the start of*
30 *employment:*

31 *(1) The applicant is found to be in compliance with the*
32 *order.*

33 *(2) The applicant negotiates with the district attorney*
34 *for a payment schedule on arrearages or reimbursement*
35 *or has established a payment schedule with the court and*
36 *is in compliance with that agreement.*

37 *(3) The applicant has submitted a request for review,*
38 *but the district attorney will be unable to complete the*
39 *review and send notice of his or her findings to the*
40 *applicant within the six-month period. This paragraph*

1 *applies only if the delay in completing the review process*
2 *is not the result of the applicant's failure to act in a*
3 *reasonable, timely, and diligent manner upon receiving*
4 *notice of the employer's finding that he or she is not in*
5 *compliance with a court-ordered child support*
6 *obligation.*

7 *(4) The applicant has filed and served a request for*
8 *judicial review, but a resolution of that review will not be*
9 *made within the six-month period. This paragraph*
10 *applies only if the delay in completing the judicial review*
11 *process is not the result of the applicant's failure to act in*
12 *a reasonable, timely, and diligent manner upon receiving*
13 *notice of the employer's finding that he or she is not in*
14 *compliance with a court-ordered child support*
15 *obligation.*

16 *(5) The applicant is not an obligor under a*
17 *court-ordered child support obligation.*

18 *(6) The applicant has obtained a judicial finding of*
19 *compliance.*

20 *The failure to demonstrate a good-faith effort to*
21 *establish one of the above criteria within six months of the*
22 *start of employment shall be grounds for discharge of the*
23 *employee.*

24 *(c) All employees of the state, any county, city, district,*
25 *or other political subdivision of the state, shall comply*
26 *with all court-ordered child support obligations as a*
27 *condition of employment. Noncompliance shall be*
28 *grounds for discipline.*

29 *(d) The department of personnel of any state or local*
30 *agency is authorized to do all of the following:*

31 *(1) Investigate the child support payment records of*
32 *employees and applicants to determine compliance with*
33 *court-ordered child support obligations.*

34 *(2) Provide information on employees and applicants*
35 *to the appropriate governmental entities, to the extent*
36 *allowed by law, to assist those offices in enforcement of*
37 *child support obligations.*

38 *(3) Promulgate regulations relating to the operation of*
39 *this section.*

1 *(e) Nothing in this section shall preclude local*
2 *governments from enacting ordinances which impose*
3 *the same or higher standards.*

4 Government Code, to read:

5 ~~1032. (a) A person is ineligible to hold office or~~
6 ~~employment of any kind under the state or any county,~~
7 ~~city, district, or other political subdivision of the state, if~~
8 ~~he or she is not in compliance with a judgment or order~~
9 ~~for child support.~~

10 ~~(b) A person is not in compliance with a judgment or~~
11 ~~order for child support for the purposes of this section if~~
12 ~~he or she is subject to one or more of the following~~
13 ~~circumstances:~~

14 ~~(1) Is more than 30 calendar days in arrears in making~~
15 ~~payments in full for current child support.~~

16 ~~(2) Is more than 30 calendar days in arrears in making~~
17 ~~periodic payments in full, whether court ordered or by~~
18 ~~agreement with the district attorney, on a child support~~
19 ~~arrearage.~~

20 ~~(3) Is more than 30 calendar days in arrears in making~~
21 ~~periodic payments in full, whether court ordered or by~~
22 ~~agreement with the district attorney, on a judgment for~~
23 ~~reimbursement for public assistance.~~

24 ~~(c) A person shall not be considered to be not in~~
25 ~~compliance with a judgment or order for child support for~~
26 ~~the purposes of subdivision (b) if he or she has obtained~~
27 ~~a judicial finding that equitable estoppel as provided in~~
28 ~~statute or case law precludes enforcement of the order.~~

29 ~~(d) This section does not apply to any person holding~~
30 ~~an office or employment under the state or any county,~~
31 ~~city, district, or other political subdivision of the state on~~
32 ~~January 1, 1999, unless the person subsequently leaves the~~
33 ~~office or employment.~~

34 ~~SEC. 2.—~~

35 *SEC. 4.* Notwithstanding Section 17610 of the
36 Government Code, if the Commission on State Mandates
37 determines that this act contains costs mandated by the
38 state, reimbursement to local agencies and school
39 districts for those costs shall be made pursuant to Part 7
40 (commencing with Section 17500) of Division 4 of Title

1 2 of the Government Code. If the statewide cost of the
2 claim for reimbursement does not exceed one million
3 dollars (\$1,000,000), reimbursement shall be made from
4 the State Mandates Claims Fund.

5 Notwithstanding Section 17580 of the Government
6 Code, unless otherwise specified, the provisions of this act
7 shall become operative on the same date that the act
8 takes effect pursuant to the California Constitution.

